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LAND AND WATER SUBCOMMITTEE OF THE ENVIRONMENTAL QUALITY SERVICE COUNCIL

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MEETING MINUTES¹

Meeting Date: September 3, 1999
Meeting Time: 10:00 a.m.
Meeting Place: Governmental Center South, 302 W.
Washington St., Conference Room A
Meeting City: Indianapolis, Indiana
Meeting Number: 2

Members Present: Sen. Beverly Gard, Chairperson; Sen. Kent Adams; David Benshoof; Randy Edgemon; Regina Mahoney; Kerry Michael Manders; Lynn Waters; Clifford E. Duggan, Jr.; David Bottorf; John Kyle; Maggie McShane; Scott Schutte; Glenn Pratt; Mike Frey; Douglas Bley; Lisa McKinney Goldner; Tonya Galbraith; Melanie Darke; Dr. Thomas Simon; Miriam Dant; Bill Hayden.

Members Absent: Sen. Glenn Howard; Rep. Mark Kruzan; Michael Carnahan; Larry Kane; Alice Schloss; Mark Palmer; Rae Schnapp; Betsy DuSold.

The Chairperson, Senator Beverly Gard, called the meeting to order shortly after 10:00 a.m. She asked whether there were any proposed corrections to the minutes of the Land & Water Subcommittee meeting

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of July 29, 1999. No corrections were proposed.

Senator Gard then recognized Bruce Palin, Deputy Commissioner and head of the Office of Land Quality of the Indiana Department of Environmental Management (IDEM), to initiate the discussion of the subject raised in House Enrolled Act 1919, SECTION 22: IDEM's Risk Integrated System of Closure (RISC) guidance document and IDEM's recommendations as to a transition period during which a person performing an environmental investigation, remediation, or closure could choose to be subject to the rules, policies, and guidance documents in effect before the publication of the RISC guidance document.

Mr. Palin announced that IDEM intends to create a work group of persons who have commented on the RISC guidance document. This group, he said, will provide feedback to IDEM on the RISC guidance document, and will have its first meeting on September 22 from 8:30 a.m. to 11:30 a.m. in Conference Room A on the 11th Floor of the Indiana Government Center North.

Mr. Palin distributed copies of a one-page document entitled "Draft Risk Integrated System of Closure (RISC) Transition Policy." This document included the following contents:

IDEM plans to issue the Risk Integrated System of Closure (RISC) Technical Manual and program-specific User Guides in early 2000. RISC will establish procedures and standards that may significantly differ from "existing" guidance (see definition below) ... To facilitate a smooth transition from "existing" guidance, IDEM is proposing the following transition policy for each of the remediation programs:

A RISC transition period will begin with the issuance of the final RISC technical manual and user guides and end six months later ... During the transition period, a responsible party or applicant is given the choice to follow either "existing" or RISC guidance ONLY if the following actions occur before or during the transition period:

- State Clean-up Program - a remediation work plan has been approved by IDEM
- RCRA permitting - a closure plan has been submitted
- RCRA corrective action - a facility investigation work plan has been submitted
- Voluntary Remediation Program - a voluntary remediation agreement (VRA) has been signed by IDEM
- Leaking Underground Storage Tank (LUST) Program - a LUST Initial Site Characterization (ISC) has been submitted to the Underground Storage Tank Branch

If the above actions have not occurred before or during the transition period, then the responsible party or applicant must utilize the RISC Technical Manual and User Guides.

Definition of "existing" guidance:

- RCRA - OSHWM's July 25, 1997 Hazardous Waste Management Unit Closure Guidance document or the draft RISC document in effect at the time the closure plan was submitted
- RCRA Corrective Action - EPA Superfund Guidance (RAGS)
- Leaking Underground Storage Tank (LUST) - the October, 1994 Underground Storage Tank Branch Guidance Manual
- Voluntary Remediation Program (VRP) - The VRP July, 1996 Program Resource Guide

Mr. Palin answered a number of questions about the Draft RISC Transition Policy, including questions about the length of the transition period (six months) and the purpose for limiting the use of "existing guidance" to persons who had reached a certain stage in their investigation, remediation, or closure activity. Senator Gard recommended making the Draft RISC Transition Policy accessible via the IDEM web site.

Subcommittee members discussed the presentation on the Pennsylvania brownfields program that was made at the August 10 EQSC meeting. Senator Gard directed staff to compile information for the

Subcommittee on brownfields programs and RISC policies in a number of other states, including Michigan, Illinois, Pennsylvania, Ohio, and Texas. Senator Gard also stated that she would work with Regina Mahoney and other Subcommittee members interested in participating to begin considering proposed legislation on the subject of brownfields.

Senator Gard then initiated a discussion of the subject raised in House Enrolled Act 1578, SECTION 9: Indiana's hazardous waste manifest program, which requires that IDEM be sent a copy of each manifest created to accompany a shipment of hazardous waste within Indiana. IDEM's Bruce Palin addressed the Subcommittee on this subject. He conceded that when the program was established "times were different" and the proper handling of hazardous waste was a more urgent concern than it is today. However, he stressed that IDEM obtains useful information from the manifest copies it receives; that the program enables IDEM to recognize and remedy problems that might otherwise be disclosed only by an inspection, and thus represents a "softer side of compliance"; and that the manifests provide IDEM with information that is not available in the biennial reports filed by generators and transporters of hazardous waste because "small quantity generators" are not required to file biennial reports .

Points made and questions posed in the discussion of the hazardous waste manifest program included the following:

- Senator Simpson: Does the information generated by the program justify the costs of complying with the program?
- Glenn Pratt: Eliminating the program might lead to an increase in "midnight dumping" of hazardous waste by small quantity generators.
- Mr. Palin: 30 other states require that a copy of each manifest be sent to the state; 22 other states have established their own manifest forms; 19 other states have established some form of manifest information data base; and 26 other states gather hazardous waste information by requiring the filing of annual reports instead of manifest copies.
- John Kyle and Scott Schutte: small quantity generators are probably less burdened by having to send a copy of each manifest to IDEM than they would be if a new annual report requirement were imposed on them.
- Randy Edgemon: Is the program disclosing many instances of illegal dumping of hazardous waste? Mr. Palin: No.
- Mr. Palin (in response to questions): The program generates about \$800,000 per year in fees. This fee revenue is used to pay the costs of the hazardous waste permitting program. About half of the fee revenue comes from businesses located outside Indiana.
- Senator Gard and Bill Beranek: The revenue generated by the program should not be considered in determining whether the program should continue.

After this discussion, Senator Gard announced that the next meeting of the EQSC Land and Water Subcommittee would focus on water-related issues. The next meeting was set for **Friday, October 14, beginning at 10:00 a.m.** (Meeting site to be announced).

Senator Gard then declared the meeting adjourned.